

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 201905991	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/08/2018 6:11 AM	Location of Incident: [REDACTED]	Precinct: 60	18 Mo. SOL 3/8/2020	EO SOL 3/8/2020	
Date/Time CV Reported Thu, 05/30/2019 1:22 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Wed, 07/03/2019 1:22 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Mariyam Maksimchak	13045	950028	060 PCT
2. SDS Frank Kish	02413	943443	060 PCT
3. POM Joseph Villarreal	09081	961425	060 PCT
4. POF Lana Donahue	02238	961738	060 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Nikia Diggs	764	932550	060 PCT
2. POM Daniel White	12223	953565	060 PCT
3. CPT Genevieve Isom	00000	933867	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Mariyam Maksimchak	Abuse: Police Officer Mariyam Maksimchak entered § 87(2)(b) in Brooklyn.	[REDACTED]
B.POF Mariyam Maksimchak	Abuse: Police Officer Mariyam Maksimchak searched § 87(2)(b) in Brooklyn.	[REDACTED]
C.SDS Frank Kish	Abuse: Sergeant Frank Kish refused to show the search warrant to § 87(2)(b)	[REDACTED]
D.POF Mariyam Maksimchak	Off. Language: Police Officer Mariyam Maksimchak made remarks to § 87(2)(b) based upon her gender.	[REDACTED]
E.POF Mariyam Maksimchak	Force: Police Officer Mariyam Maksimchak used physical force against § 87(2)(b)	[REDACTED]
F.POF Lana Donahue	Discourtesy: Police Officer Lana Donahue spoke discourteously to § 87(2)(b)	[REDACTED]
G.SDS Frank Kish	Force: Sergeant Frank Kish used physical force against § 87(2)(b)	[REDACTED]
H.POM Joseph Villarreal	Force: Police Officer Joseph Villarreal used physical force against § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
I.POM Joseph Villarreal	Force: Police Officer Joseph Villarreal tightly handcuffed § 87(2)(b)	

Case Summary

On May 30, 2019, § 87(2)(b) mailed a handwritten complaint to the CCRB. On July 3, 2019, the letter was received at the CCRB.

On September 8, 2018, at approximately 6:11 a.m., Sergeant Frank Kish, Police Officer Mariyam Maksimchak, Police Officer Joseph Villareal, and other officers from the 60th Precinct entered and searched § 87(2)(b) in Brooklyn (**Allegation A and B: Abuse of Authority**, § 87(2)(g) Sgt. Kish refused to show § 87(2)(b) the search warrant (**Allegation C: Abuse of Authority**, § 87(2)(g) PO Maksimchak called § 87(2)(b) a “bitch” (**Allegation D: Offensive Language**, § 87(2)(g) and punched § 87(2)(b) in the face (**Allegation E: Force**, § 87(2)(g) Police Officer Lana Donahue spoke discourteously towards § 87(2)(b) (**Allegation F: Discourtesy**, § 87(2)(g) Sgt. Kish slammed § 87(2)(b) face into a wall (**Allegation G: Force**, § 87(2)(g) PO Villareal used physical force against § 87(2)(b) (**Allegation H: Force**, § 87(2)(g) and tightened § 87(2)(b) handcuffs (**Allegation I: Force**, § 87(2)(g) § 87(2)(b) and § 87(2)(b) were arrested as a result of this incident. No other arrests resulted from this incident.

The officers were not yet assigned Body Worn Cameras and there is no video evidence in this case.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Mariyam Maksimchak entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Police Officer Mariyam Maksimchak searched § 87(2)(b) in Brooklyn.

It is undisputed that on September 8, 2018, at approximately 6:11 a.m., officers from the 60th Precinct entered and searched § 87(2)(b) in Brooklyn, pursuant to a valid search warrant.

Police documentation confirmed that a valid search warrant, Kings County search warrant § 87(2)(b), was issued by Supreme Court Judge § 87(2)(b) on September 6, 2018, authorizing PO Maksimchak and any police officer to execute a no knock entry and search of § 87(2)(b) in Brooklyn, between 6 a.m., and 9 p.m., and to seize and return to the court any evidence demonstrating the illegal trafficking of crack cocaine (Board Review 01). The search warrant also authorized the arrest, search, and seizure of any properties found on § 87(2)(b)

New York State Criminal Procedure Law Section 690.50 (Board Review 02) states that a search warrant authorizes a police officer to conduct a search of designated premises for the purpose of seizing property, and to deliver any property obtained to the court which issued the warrant. Officers are not required to give prior notice of authority or purpose to the occupants of the premises to be searched, provided the search warrant expressly authorizes entry without notice.

§ 87(2)(b)
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Allegation (C) Abuse of Authority: Sergeant Frank Kish refused to show the search warrant to § 87(2)(b)

§ 87(2)(b) (Board Review 03) said she asked the officers if they had a search warrant, and requested that they show her the warrant. Sgt. Kish replied, “We don’t need to show you a warrant. This is not Law and Order.” § 87(2)(b) was never shown the search warrant.

§ 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were inside § 87(2)(b) apartment at the time the search warrant was executed, but all were unavailable and uncooperative with the investigation (Board Review 04).

Sgt. Kish (Board Review 05) did not recall whether § 87(2)(b) asked to see the search warrant, nor did he recall whether the warrant was brought on scene, though he said it was likely. Sgt. Kish, however, denied refusing to show § 87(2)(b) the search warrant, and said if the warrant was not shown to her at the scene, it ultimately would have been shown to her at the stationhouse.

PO Maksimchak (Board Review 06) and PO Villareal (Board Review 07) did not recall hearing § 87(2)(b) request to see a search warrant or Sgt. Kish refuse to show the search warrant to her.

§ 87(2)(b), § 87(2)(g)

Allegation (D) Offensive Language: Police Officer Mariyam Maksimchak made remarks to § 87(2)(b) based upon her gender.

Allegation (F) Discourtesy: Police Officer Lana Donahue spoke discourteously towards § 87(2)(b).

§ 87(2)(b) said that PO Maksimchak called her a “bitch” and that at some point § 87(2)(b) told the officers that she believed she was pregnant because she had missed her menstrual cycle. PO Donahue, identified via investigation, said to § 87(2)(b) “Now you are fucking pregnant?”

PO Maksimchak and PO Donahue denied making any offensive and profane remarks to § 87(2)(b) at any point during this incident.

PO Villareal and Sgt. Kish did not recall hearing PO Maksimchak and PO Donahue make profane and offensive remark to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation (E) Force: Police Officer Mariyam Maksimchak used physical force against § 87(2)(b).

Allegation (G) Force: Sergeant Frank Kish used physical force against § 87(2)(b).

Allegation (H) Force: Police Officer Joseph Villareal used physical force against § 87(2)(b).

§ 87(2)(b) said that PO Maksimchak and two unidentified officers approached her while she was handcuffed and sitting on a couch, and pressed her into the couch. § 87(2)(b) felt uncomfortable and began to move around in the couch. PO Maksimchak punched § 87(2)(b) in the middle of the face by her eyes and nose causing § 87(2)(b) to bleed from her face. § 87(2)(b) later found out that she was punched in the face because PO Maksimchak had alleged that § 87(2)(b) bit her hand. § 87(2)(b) denied biting PO Maksimchak. At some point, several officers escorted § 87(2)(b) and the four others who were under arrest, out of the apartment. All were escorted out of the building except for § 87(2)(b) who was kept in the hallway. § 87(2)(b) attempted to draw the attention of her neighbors by yelling and screaming for help. Sgt. Kish grabbed § 87(2)(b) by the head and slammed her face into a wall causing § 87(2)(b) to bleed from her nose and feel pain on her forehead. Sgt. Kish then instructed PO Villareal to put a sheet on § 87(2)(b) head. § 87(2)(b) believed Sgt. Kish wanted to hide the swelling on her forehead. PO Villareal put the sheet on § 87(2)(b) head, and then grabbed § 87(2)(b) handcuffed arms and pulled them above § 87(2)(b) head to a point that caused § 87(2)(b)

shoulder to dislocate from its socket. § 87(2)(b) was transported to § 87(2)(b) Hospital, where her head and shoulder were examined, and she was prescribed pain medication.

The Ambulance Call Report (ACR) and the Medical Treatment of Prisoner Report (MTPR) prepared for § 87(2)(b) indicates that § 87(2)(b) was brought to § 87(2)(b) Hospital after complaining of pain to her right shoulder, which § 87(2)(b) said she sustained from falling on the floor during her arrest. She had no complaint of dizziness (Board Review 12, Board Review 13). § 87(2)(b) medical records also indicate that § 87(2)(b) complained of pain to her right shoulder but as a result of officers hitting her shoulder against a wall. She complained also of intermittent dizziness. A physical examination, including a CAT scan and X-ray, was performed on § 87(2)(b) and the results showed that § 87(2)(b) had a normal range of motion and no evidence of dislocation, and no evidence of head trauma. She was prescribed ibuprofen and released to police custody in stable condition (Board Review 15).

The arrest photograph of § 87(2)(b) does not show any visible injuries or swelling to her face (Board Review 12).

Sgt. Kish, PO Villareal, and PO Maksimchak all said § 87(2)(b) and the other four arrestees in the apartment were extremely uncooperative and acted belligerently and aggressively towards the officers.

Sgt. Kish said that § 87(2)(b) and the four arrestees attempted multiple times to stand up from the floor despite being instructed to remain seated, and thus had to be held down by officers. § 87(2)(b) and the four civilians spit, kicked, and struggled with the officers. Sgt. Kish did not recall if anything was done to prevent the civilians from spitting. § 87(2)(b) stood up and tried to push and bite PO Maksimchak. PO Maksimchak pressed § 87(2)(b) into a couch. Sgt. Kish did not see PO Maksimchak punch § 87(2)(b) in the face. Sgt. Kish also denied slamming § 87(2)(b) head into a wall and did not see PO Villareal or any other officer pull § 87(2)(b) arms above her head. Sgt. Kish did not observe any physical injuries on § 87(2)(b) but said she complained of bodily pain, and was thus removed to § 87(2)(b) Hospital.

PO Villareal and PO Maksimchak said that § 87(2)(b) attempted to run and that PO Maksimchak held her on the couch to prevent her from escaping. § 87(2)(b) struggled with the officers, kicked and spat on the officers. PO Villareal and PO Maksimchak held § 87(2)(b) on the couch and ordered her to stop resisting, but she did not comply, and bit PO Maksimchak's hand. PO Villareal held a T-shirt in front of § 87(2)(b) to prevent her from spitting on the officers. PO Maksimchak denied punching § 87(2)(b) on any part of her body. She and PO Villareal did not see Sgt. Kish slam her face into a wall, and denied that PO Villareal pulled her arms above her head. PO Villareal and PO Maksimchak did not observe any physical injuries on § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation (I) Force: Police Officer Joseph Villareal tightly handcuffed § 87(2)(b)

§ 87(2)(b) alleged that PO Villareal, while escorting her to the ambulance squeezed and tightened her handcuffs anytime she attempted to speak and draw the attention of her neighbors to the officers. § 87(2)(b) felt intense pain around her wrist, which she said was not examined when she was transported to the hospital. § 87(2)(b) however, said that she subsequently sought medical attention for her wrist while at § 87(2)(b), and that she was informed that the nerves around her wrists were slightly damaged.

The investigation did not obtain § 87(2)(b) medical records from § 87(2)(b), and her medical records from § 87(2)(b) Hospital yielded negative results for any diagnosis relating to injuries to her wrist (Board Review 15).

PO Villareal denied escorting § 87(2)(b) to the ambulance, and thus denied squeezing and tightening her handcuffs.

PO Donahue acknowledged being one of the officers who escorted § 87(2)(b) to the ambulance, but did not recall who the other officer was. PO Donahue denied that she and the officer who escorted § 87(2)(b) to the ambulance squeezed or tightened § 87(2)(b) handcuffs, nor did she see PO Villareal do so.

PO Maksimchak and Sgt. Kish did not recall seeing PO Villareal squeeze or tighten § 87(2)(b) handcuffs.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Kish has been a member-of-service for 13-years and has been a subject in five CCRB complaints and eight allegations, of which one was substantiated.
 - Case #201507319 involved a substantiated search of a person allegation against Sgt. Kish. The Board Recommended Command Discipline A, whereas the NYPD imposed Formalized Training.
 - Sgt. Kish's CCRB history does not reflect any apparent patterns pertinent to this investigation.
- PO Maksimchak has been a member-of-service for eight years and has been a subject in five CCRB complaints and seven allegations, none of which were substantiated, and which do not reflect any apparent patterns pertinent to this investigation.
- PO Donahue has been a member-of-service for three years, and this is the first CCRB complaint to which she has been a subject.
- PO Villareal has been a member-of-service for four years, and has been a subject in four CCRB complaints and nine allegations, of which one was substantiated.
 - Case #201803335 involved a substantiated vehicle search allegation against PO Villareal. The Board and the NYPD both recommended and imposed Formalized Training.
 - PO Villareal's CCRB history does not reflect any apparent patterns pertinent to this investigation.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming physical injuries to her head, face, and ankles, and is seeking financial compensation of 8.2 million dollars (Board Review 18).
- § 87(2)(b)

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date